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JUN 28 2010

OFFICE OF PETITIONS

In re Patent of Ksander et al.: DECISION ON REQUEST
Patent No. 7,652,061 : FOR
Issue Date: January 26, 2010 : RECONSIDERATION OF
Application No. 10/556,988 : PATENT TERM ADJUSTMENT
Filed: February 3, 2006 : and
Atty Docket No. PC/4-33209A : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 11, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-six (646) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-six (646) days¹ is **GRANTED to the extent indicated herein.**

¹ The "B" delay period is 428 days, not 327 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is May 20, 2003. As early processing was not requested, the national stage commenced in this application on November 21, 2005. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Thus, "B" delay is 431 days, counting the number of days beginning on November 22, 2008 and ending on January 26, 2010, the date of issuance, reduced by the 3 day overlapping period between the A Delay period and the B delay period, from January 24, 2010 to January 26, 2010.

The patent term adjustment is derived as follows: 352 days A delay + 428 B delay (431 days in Three Year Period - 3 overlapping days) - 30 days Applicant delay = **750 days**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred fifty (750) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,652,061

DATED : January 26, 2010

DRAFT

INVENTOR(S) : Ksander et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 327 days

Delete the phrase "by 327 days" and insert – by 750 days--